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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,461

09/25/2003

Ru-Shi Liu

2019-0221P

4564

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7590

05/04/2006

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EXAMINER

HINES, ANNE M

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/669,461

Applicant(s)

LIU ET AL.

Examiner

Anne M. Hines

Art Unit

2879

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See continuation sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 1.
Claim(s) rejected: 1 and 3-7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see attached detailed action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Mary 4/26/06
MARICELI SANTIAGO
PRIMARY EXAMINER

The claims, if amended as proposed, raise new matter requiring further consideration and search. Specifically, the phosphor is now required to have both Zn and Cd.


MARICELI SANTIAGO
PRIMARY EXAMINER

DETAILED ACTION

Response to Arguments

Applicant's arguments filed April 6, 2006 have been fully considered but they are not persuasive.

Applicant argues the properness of the final rejection mailed on December 6, 2005. Applicant argues that the list of foreign ions added to claim 1 in the amendment was previously listed in original claim 2, and therefore, Examiner's finality due to Applicant's amendment is improper.

The Examiner respectfully disagrees. The original claim 2 required a semiconductor-type phosphor with (Zn, Cd)S being a host matrix with foreign ions added thereto as luminescence centers, "wherein the foreign ions are Ag ions, Cu ions, Cl ions or a combination thereof." The amended claim 1 requires "a semiconductor-type phosphor with (Zn, Cd)S:M,N being a host matrix with foreign ions added thereto as luminescence centers. wherein M is one of Ag ion, Cu ion and Cl ion or a combination thereof, and N is one of Al ion. Cu ion and Cl ion or a combination thereof." The amended claim 1 requires two activators whereas the original claim 2 only required one.

Applicant argues with respect to claim 3 that the Shimizu reference, which teaches an LED with phosphor surrounding the LED chip, is used with a different type of phosphor than the type of phosphor in the Evans reference and the claims of the present application. Applicant further argues that one of ordinary skill in the art would not combine the two reference since they use different phosphors.

The Examiner respectfully disagrees. In Column 25, lines 15-17, Shimizu discloses a light emitting diode used in conjunction with the phosphor (ZnCd)S:Cu,Al. The Evans reference teaches zinc-cadmium sulfides activated with silver, copper, nickel, and chlorine, and also a zinc sulfide phosphor activated with silver and chlorine (Column 1, lines 35-53). Since both Shimizu and Evans teach zinc-cadmium sulfide phosphors activated with multiple metals, the Examiner considers that one skilled in the art would reasonably contemplate using the phosphors disclosed by Evans in the LED device of Shimizu.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne M. Hines whose telephone number is (571) 272-2285. The examiner can normally be reached on Monday through Friday from 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2879

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anne M Hines
Patent Examiner
Art Unit 2879

AmH
4/24/06

msg 4/25/06
MARICELI SANTIAGO
PRIMARY EXAMINER